

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal Nos. 7774-7776 of 1997

A. SHANMUGAM & ORS.

Appellant (s)

VERSUS

T.N. RAJA GOUNDER & ORS. Respondent (s)

(With appln.(s) for deleting the name of Respondent No.1 from the array of parties and office report)

Date : 10/09/2003 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SHIVARAJ V. PATIL
HON'BLE MR. JUSTICE D.M. DHARMADHIKARIFor Appellant (s)Mr. S. Siva Subramaniam,Sr.Adv.
Mr. R. Ayyam Perumal,Adv.

For Respondent (s)Mr. K. Ram Kumar,Adv.

UPON hearing counsel the Court made the following
O R D E R

Heard the learned counsel for the parties from 12.25 p.m. to 12.55 p.m.

The name of the first respondent is deleted from the array of parties at the risk of the petitioners. Applications for deleting the name of Respondent No.1 are, therefore, allowed.

The civil appeals are allowed.

No costs.

[T.I. Rajput] [Shelly Sengupta]
Court Master Court Master

[Signed order is placed on the file]

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 7774-7776 OF 1997

A. Shanmugam and Ors. ...Appellant(s)

Versus

Kumararaja and Ors. ...Respondent(s)

O R D E R

Heard the learned counsel for the parties.

By the impugned judgement, the High Court has reversed the findings of fact recorded by the first appellate court without referring to the reasons recorded by it to show how those reasons could not be sustained; or without showing that the findings of fact recorded by the first appellate court were either perverse or based on no evidence; or any material placed on record was ignored or not considered. This apart, the High Court did not consider appropriately whether any substantial question of law did arise for consideration between the parties, as required under Section 100 of the Code of Civil Procedure, 1908. Although the learned Judge, in the impugned judgement, has re-produced the substantial question of law that was framed at the time of admission of the matter, but he did not discuss the evidence placed on record keeping in view that

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substantial question of law. The High Court re-appreciated the evidence placed on record without looking to its appreciation by the first appellate court and reasons recorded therefor as if it was considering the evidence to dispose of a suit or a first appeal. In this view of the matter, we find it difficult to sustain the impugned judgement. Consequently, we set aside the impugned judgement, allow these appeals and remit the second appeals to the High Court to consider whether any substantial questions of law arises for consideration between the parties and then to dispose of the second appeals in accordance with law.

No costs.

.....J.
[SHIVARAJ V. PATIL]

.....J.
[D.M. DHARMADHIKARI]
New Delhi,
September 10, 2003.